

**2005 DRAFTING REQUEST**

**Assembly Amendment (AA-AB100)**

Received: 06/10/2005

Received By: phurley

Wanted: As time permits

Identical to LRB:

For: Legislative Fiscal Bureau

By/Representing: Dyck

This file may be shown to any legislator: NO

Drafter: phurley

May Contact:

Addl. Drafters:

Subject: Transportation - miscellaneous

Extra Copies: ARG

Submit via email: YES

Requester's email:

Carbon copy (CC:) to:

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**Pre Topic:**

LFB:.....Jon Dyck -

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**Topic:**

Sale of park-and-ride

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**Instructions:**

See Attached

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	phurley 06/10/2005 phurley 06/13/2005	csicilia 06/10/2005 chanaman 06/13/2005	chanaman 06/10/2005	_____	mbarman 06/12/2005		
/2			rschluet 06/13/2005	_____	sbasford 06/13/2005		

FE Sent For:

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**Instructions:**

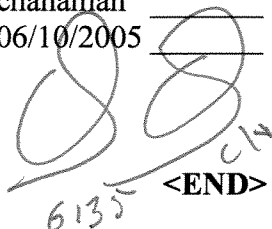
See Attached

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/1	phurley 06/10/2005	csicilia 06/10/2005	chanaman 06/10/2005		mbarman 06/12/2005		

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6135 <END>

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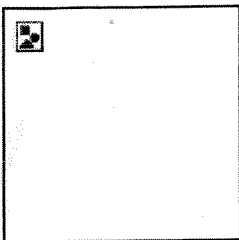
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/1	phurley	1 ej5 6/10 03		==			

FE Sent For:

<END>



**Wisconsin Department of Transportation**  
**Office of General Counsel**  
(608) 266-8810 [Phone]  
(608) 267-6734 [FAX]

James S. Thiel  
Joe Maassen  
Barbara Bird  
Allyn Lepeska  
Mike Kernats  
Fred Wisner  
John Sobotik  
Paul E. Nilsen  
Cari Anne Renlund

## MEMORANDUM

To: Randy Romanski, EA  
From: Cari Anne Renlund, AGC  
Re: Park-n-Ride legislation  
Date: April 18, 2005

Randy;

Representative Jensen asked for our assistance in drafting legislative clarification of WisDOT's authority to engage in private/public development of state-owned park-n-ride facilities.

The two relevant statutory provisions are Wis. Stat. §§ 84.01 (30) and 84.09 (5). Wis. Stat. § 84.01 allows WisDOT to enter into build-operate-lease or transfer agreements with private entities for the construction of transportation projects, including park-n-ride facilities. *See* Wis. Stat. § 84.01 (30). In addition, Wis. Stat. § 84.09 (5) grants WisDOT the authority, subject to the Governor's approval, to sell property that no longer has a transportation purpose. We believe WisDOT currently has the authority to transfer park-n-ride real estate directly to private entities, subject to the Governor's approval, if the state's transportation interests in the property are preserved. However, to eliminate any question over that issue, a legislative clarification would be helpful.

The statutory clarification should be at Wis. Stat. § 84.01 (30)(g)(3). The concepts are as follows:

1. Notwithstanding any other statute to the contrary ✓
2. WisDOT *MAY* sell directly to a private entity for fair market value ✓
3. the real estate upon which a park-n-ride facility is located ✓
4. or other real estate that may become a park-n-ride facility ✓
5. if the park-n-ride facility will retain the state's transportation interests or purposes ✓
6. and WisDOT determines sale of the property is in the best interest of the public ✓
7. This provision should be both retroactively and prospectively applied.
8. Wis. Stat. § 84.01 (30)(a) through (f) should only apply to park-n-ride facilities to the extent they are relevant.



State of Wisconsin  
2005 - 2006 LEGISLATURE

LRBb0402/1  
PJH:.....

5  
gs

LFB:.....Jon Dyck - Sale of park-and-ride

FOR 2005-07 BUDGET -- NOT READY FOR INTRODUCTION

ASSEMBLY AMENDMENT ,

TO 2005 ASSEMBLY BILL 100

6-10

1 At the locations indicated, amend the bill as follows:

2 1. Page 856, line 2: after that line insert:

3 "SECTION 1718g. 84.01 (30) (intro.) of the statutes is amended to read:

4 84.01 (30) BUILD-OPERATE-LEASE OR TRANSFER AGREEMENTS. (intro.) The  
5 department may enter into build-operate-lease or transfer agreements with private  
6 entities for the construction of transportation projects, including any projects to be  
7 financed under s. 84.59 for transportation administrative facilities under s. 84.01  
8 (28) and, for projects that are not purchased by the state upon their completion, for  
9 the maintenance and operation of such projects. A project under this subsection may  
10 be constructed on state-owned land. An agreement under this subsection may not  
11 be entered into unless the department determines that the agreement advances the  
12 public interest, and the private entity has prior experience in design, construction,

1 site development and environmental impact analysis and, for a project that is not  
2 expected to be purchased by the state upon its completion, has the capability of  
3 maintaining and operating the facility upon completion of the project. The following  
4 provisions shall be contained in any build-operate-lease or transfer agreement  
5 under this subsection, except that they shall be included in an agreement for a sale  
6 of property under par. (g) 3. only if they are relevant to that sale:

History: 1971 c. 40, 125; 1973 c. 12; 1973 c. 243 s. 82; 1975 c. 189; 1977 c. 29 ss. 918 to 924, 1654 (1), (8) (a), (f), 1656 (43); 1977 c. 190, 272; 1979 c. 221, 314; 1981 c. 346 s. 38; 1983 a. 27, 130; 1985 a. 29, 300; 1987 a. 27; 1989 a. 31, 125, 345; 1993 a. 246; 1995 a. 225, 338; 1997 a. 27, 106; 1999 a. 9; 2001 a. 16.

7 **SECTION 1718p. 84.01 (30) (g) 3. of the statutes is created to read:**

8 84.01 (30) (g) 3. Notwithstanding any other statute, the department may sell,  
9 at fair market value, the real estate upon which a park-and-ride facility is or may  
10 be located, if the department determines that the sale is in the best interests of the  
11 public and the park-and-ride facility will be used for public transportation.”.

12 (END)

## Hurley, Peggy

---

**From:** Dyck, Jon  
**Sent:** Saturday, June 11, 2005 3:05 PM  
**To:** Hurley, Peggy  
**Subject:** RE: LRB 0402/1

I don't think the state should retain interest. How about saying something like, "the Department determines that the real estate subject to sale will be used in a manner consistent with the state's transportation interests." I realize that that's kinda squishy, but at least this would allow DOT to make the call on what it means, which I think is the point.

Any thought on the applicability to prior sales?

I agree about it not making much sense.

-----Original Message-----

**From:** Hurley, Peggy  
**Sent:** Saturday, June 11, 2005 2:58 PM  
**To:** Dyck, Jon  
**Subject:** RE: LRB 0402/1

Jon,

I tried to avoid the exact language in the motion because the language in the motion doesn't make sense to me, for a few reasons. First, the "real estate" doesn't retain any interest or purpose. The owner of the real estate does. I suppose we could say that there must be a provision in the sales contract stating that the real estate will be used for transportation purposes, but that doesn't say much, really. What are transportation purposes, and is that requirement for perpetuity, or what?

Second, if the real estate is sold, the "state" doesn't retain any interests in it, does it? Or do you want me to draft it so that the state does retain an interest in the property? And if the state does retain an interest, is it some sort of co-owner with the private owner? Please clarify, and I'll do my best on a /2.

Peggy

-----Original Message-----

**From:** Dyck, Jon  
**Sent:** Saturday, June 11, 2005 12:50 PM  
**To:** Hurley, Peggy  
**Subject:** LRB 0402/1

Peggy,

RE the park-and-ride draft, the final clause: Could we use something like "retains the state's transportation interests or purposes" instead of "will be used for public transportation"? I think the sold real estate may not itself be used for public transportation. It could be used to build some type of complimentary facility. Also, as drafted, it doesn't specify the *state's* interests are retained, which I think needs to be in there.

Also, the motion says it applies to past and future deals. By changing the law to give the Department this authority, does that imply that they did not have it before? I think the Department requested this change because they kinda thought they could do this before, and maybe did do some of it, but wanted to make sure. If adding it now implies that they didn't have the authority previously, then something should be added to specify that this doesn't imply that previous transactions like this are not invalidated. If you believe that this is unnecessary, I'd probably be okay with leaving it out.

Jon

LFB:.....Jon Dyck - Sale of park-and-ride

FOR 2005-07 BUDGET -- NOT READY FOR INTRODUCTION  
ASSEMBLY AMENDMENT ,  
TO 2005 ASSEMBLY BILL 100

1 At the locations indicated, amend the bill as follows:

2 1. Page 856, line 2: after that line insert:

3 "SECTION 1718g. 84.01 (30) (intro.) of the statutes is amended to read:

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9 the maintenance and operation of such projects. A project under this subsection may  
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1 site development and environmental impact analysis and, for a project that is not  
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 4 provisions shall be contained in any build-operate-lease or transfer agreement  
 5 under this subsection, except that they shall be included in an agreement for a sale  
 6 of property under par. (g) 3. only if they are relevant to that sale:

7 **SECTION 1718i.** 84.01 (30) (g) 3. of the statutes is created to read:

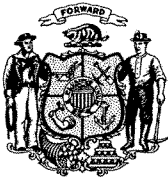
8 84.01 (30) (g) 3. Notwithstanding any other statute, the department may sell,  
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 10 be located, if the department determines that the sale is in the best interests of the  
 11 public and the park-and-ride facility will be used for public transportation.".

12 (END)

department determines that  
the real estate will be  
used in a manner  
consistent with the  
state's transportation  
interests.

Q. Page 1119, line 20:  
after that line insert:

"(1<sup>st</sup>) PARK-AND-RIDE SALES. The  
treatment of section 84.01 (30) (intro.) and (g) 3.  
of the statutes first applies to sales  
of real estate on or before the effective date of  
this subsection."



State of Wisconsin  
2005 - 2006 LEGISLATURE

LRBb0402/2  
PJH:cjs:rs

LFB:.....Jon Dyck - Sale of park-and-ride

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11 public and the department determines that the real estate will be used in a manner  
12 consistent with the state’s transportation interests.”.

13 **2.** Page 1119, line 20: after that line insert:

14 “(1n) PARK-AND-RIDE SALES. The treatment of section 84.01 (30) (intro.) and (g)  
15 3. of the statutes first applies to sales of real estate on or before the effective date of  
16 this subsection.”.

17 (END)